IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 7047 of 2015 (E)

PETITIONER :

ISSAC ANDREWS, AGED 43 YEARS,
PROPRIETOR, "JACKIES", ERESSERIL HOUSE,
DUTCH SQUARE, NEW BAZAR P.O., ALAPPUZHA - 688 012.

BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS

RESPONDENTS:-:
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1. THE AGRICULTURAL INCOME TAX & COMMERCIAL TAX OFFICER,
ALAPPUZHA - 688 011.

2. THE DEPUTY TAHSILDAR,
AMBALAPUZHA TALUK OFFICE, ALAPPUZHA - 688 001.

R1 & R2 BY SENIOR GOVERNMENT PLEADER
SMT. SHOBA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 7047 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE ANNUAL RETURN DATED 10.07.12 E-FILED FOR THE YEAR 2011-12 BEFORE 1ST RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE RR NOTICES DATED 28.01.2015 ISSUED U/S. 7 AND 34 OF THE RR ACT BY 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT P3: TRUE COPY OF CERTIFIED ASSESSMENT ORDER DATED 11.07.14 ISSUED BY 1ST RESPONDENT ON 28.02.2015 FOR THE YEAR 2011-2012.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 7047 of 2015

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Dated this the 10th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P3 assessment order passed in relation to the petitioner for the assessment year 2011-12 under the Kerala Value Added Tax Act. The challenge against Ext.P3 is that, the said order was passed without hearing the petitioner and therefore, there was non compliance with the rules of natural justice.

2. I have heard Sri.Devananda Narasimham, the learned counsel appearing on behalf of the petitioner as also Smt. Sobha Annamma Eappen, the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that in Ext.P3 order, a reference is made to the service of notice on the petitioner. It is then stated that, the notice, although sent by registered post, was returned by the postal authority as 'unclaimed'.

4. The learned counsel for the petitioner points out that the petitioner had closed his business, at the address that was referred to in Ext.P3 order, and had also intimated this fact to the respondents. It is also pointed out that, in the annual return filed by the petitioner, the address of the petitioner is correctly shown.

5. In that view of the matter, I find that the respondents could have served the notice on the petitioner, at the address from where he is presently functioning. Inasmuch as that has not been done prior to the passing of Ext.P3 order, I quash Ext.P3 order and direct the 1st respondent to complete the assessment of the petitioner for the assessment year 2011-12 afresh, after hearing the petitioner. To enable the 1st respondent to do this, I direct the petitioner to appear before the 1st respondent at his office at 11 AM on 25.03.2015.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das